Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-1309

JEFFREY COLE BIGELOW,

Appellant,

—v.—

COMMONWEALTH OF VIRGINIA,

Appellee.

ON APPEAL FROM THE SUPREME COURT OF VIRGINIA

JURISDICTIONAL STATEMENT FILED FEBRUARY 25, 1974
JURISDICTION NOTED JULY 8, 1974

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NOTE: The following items appear in the Appendix to the Jurisdictional Statement in this case and are not reproduced here:

1. Opinion of the Supreme Court of Virginia of September 1, 1972.

2. Notice of Appeal and Assignments of Error to Supreme Court of Virginia - August 31, 1971.

3. Opinion of the Supreme Court of Virginia of November 26, 1973.

DOCKET ENTRIES

May 13, 1971	Warrant of Arrest Issued
May 27, 1971	Judgment of Conviction, Albemarle County Court: Appeal Noted to Albemarle County Circuit Court
July 15, 1971	Judgment of Conviction, Albemarle County Circuit Court
August 31, 1971	Notice of Appeal to Supreme Court of Virginia Filed in Circuit Court of Albemarle County
September 1, 1972	Judgment of Conviction Affirmed by Supreme Court of Virginia
November 27, 1972	Notice of Appeal to Supreme Court of United States Filed in Supreme Court of Virginia
November 26, 1973	Judgment of Conviction Reaffirmed by Supreme Court of Virginia
December 17, 1973	Notice of Appeal to Supreme Court of United States Filed in Supreme Court of Virginia

WARRANT OF ARREST

COMMONWEALTH OF VIRGINIA,
COUNTY OF ALBEMARLE, to-wit:

To the Sheriff of the County of Albemarle or any Police Officer

Whereas, Leon J. Podles, Jr. of said County, has this day made complaint and information on oath before me, D.D. Hudson,Jr. of said County, that Jeffery C. Bigelow in the said County on the 8 day of February,1971,did unlawfully by publication, advertisement, sale or circulation of the Virginia Weekly,encourage or prompt the procuring of abortion in violation of Sec. 18.1-63 of the Code of Virginia in violation of the laws of the Commonwealth of Virginia:

These are therefore, in the name of the Commonwealth of Virginia, to command you forthwith to apprehend and bring before the Judge of said County, the body (bodies) of the above accused to answer said complaint and to be further dealt with according to law. You are also directed to summon the following witnesses to appear before said Judge at the hearing of said case on the 21 day of May, 1971.

Given under my hand and seal this 13 day of May 1971.

D. D. Hudson, Jr.

Stipulation of Facts

VIRGINIA:

IN THE
CIRCUIT COURT OF ALBEMARLE COUNTY

COMMONWEALTH OF VIRGINIA

v.

JEFFREY C. BIGELOW

The following facts are stipulated for purpose of appeal in the above styled case:

Jeffrey C. Bigelow was a director, managing editor, and responsible officer of the Virginia Weekly, a newspaper published by the Virginia Weekly Associates of Charlottesville, Virginia, and distributed in the Charlottesville area.

On February 8, 1971, the Virginia Weekly Volume V, number 6, was published and circulated in Albemarle County, Virginia, and in particular on the grounds of the University of Virginia, which is in the jurisdiction of Albemarle County, and said publication and circulation were the direct responsibility of Jeffrey C. Bigelow.

The February 8 Issue of the Virginia Weekly carried an advertisement on page 2, which is in evidence in this case, and said ad is incorporated into this factual stipulation by reference thereto.

Erratum
The continuation of the Stipulation of Facts will be found at p. 8.

Judgment of Conviction

VIRGINIA:

AT A CIRCUIT COURT HELD FOR THE COUNTY OF ALBEMARLE ON THE 15TH DAY OF JULY, 1971

APPEAL FROM COUNTY COURT #2483

COMMONWEALTH OF VIRGINIA

vs.

JEFFERY C. BIGELOW

Present:—Hon. David F. Berry

On this the 15th day of July, 1971 came the Attorney for the Commonwealth and the defendant, Jeffery C. Bigelow, and came also his attorney, John C. Lowe.

Whereupon the accused was arraigned and pleaded NOT GUILTY to the charge in said warrant.

And after being advised by the Court of his right to trial by jury, and the accused knowingly and voluntarily waived trial by jury and with the concurrence of the Attorney for the Commonwealth and of the Court, here entered of record, the Court proceeded to hear and determine the case without a jury and having heard the evidence and argument of counsel, doth find the accused guilty of "by publication advertisement, sale or circulation of the Virginia Weekly, encourage or prompt the procuring of abortion in violation of Sec. 18.1-63 of the Code of Virginia" as charged in the warrant.

The Court doth ADJUDGE and ORDER that the defendant pay, and the Commonwealth recover a fine of $500.00 and costs of $..... The Court doth however suspend $350.00 of said fine, conditioned upon no further violation of Section 18.1-63 of the Code of Virginia.

Thereupon, the defendant was allowed to depart.

DAVID F. BERRY, *Judge*

Notice of Appeal

[Filed November 27, 1972]

IN THE

SUPREME COURT OF VIRGINIA

Record No. 7972

JEFFREY COLE BIGELOW,

Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Appellee.

From the Circuit Court of Albermarle County

DAVID F. BERRY, Judge

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Jeffrey C. Bigelow, appellant in the above-stated case, hereby appeals to the Supreme Court of the United States from the final Judgment of the Supreme Court of Virginia entered on September 1, 1972.

This appeal is taken pursuant to 28 U.S.C. Section 1257 (2).

Date:

F. GUTHRIE GORDON, III
JOHN C. LOWE
1111 West Main Street
Charlottesville, Virginia 22903
Attorneys for Appellant

Remand Order of the United States Supreme Court

SUPREME COURT
OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D. C. 20543

June 25, 1973

Melvin L. Wulf, Esq.
ACLU Foundation
22 East 40th St.
New York, N. Y. 10016

RE: BIGELOW v. VIRGINIA,
No. 72-932,

Dear Sir:

The Court today entered the following order in the above-entitled case:

> The judgment is vacated and the case is remanded to the Supreme Court of Virginia for further consideration in light of *Roe* v. *Wade*, 410 U.S. 113 (1973); and *Doe* v. *Bolton*, 410 U.S. 179 (1973).

Very truly yours,

MICHAEL RODAK, JR., *Clerk*

By /s/ HELEN TAYLOR, (MRS.)
Assistant Clerk

D. PATRICK LACY, JR., Esq.
Asst. Attorney General of Va.
Supreme Court—Library Bldg.
1101 East Broad St.
Richmond, Va. 23219

There is no contest on the factual issue of the printing of the advertisement. The only issue is in whether the advertisement violates Virginia law, and if so, whether Virginia law is unconstitutional.

Also in evidence is a June, 1971 issue of Redbook magazine, carrying abortion information from across the United States. Redbook magazine is distributed in Virginia and in Albemarle County.

F. Guthrie Gordon, III
Lowe and Gordon
1111 West Main Street
Charlottesville, Virginia
Counsel for
Jeffrey C. Bigelow

Downing L. Smith
Downing L. Smith
Commonwealth's Attorney
for Albemarle County
301 County Office Bldg.
Charlottesville, Virginia

Notice of Appeal

[Filed December 20, 1973]

In the

SUPREME COURT OF VIRGINIA

Record No. 7972

Jeffrey Cole Bigelow,

Appellant,

v.

Commonwealth of Virginia,

Appellee.

From the Circuit Court of Albemarle County
David F. Berry, *Judge.*

Notice of Appeal to the
Supreme Court of the United States

Notice is hereby given that Jeffrey C. Bigelow, the Appellant in the above stated case, hereby appeals to the Supreme Court of the United States from the final judgment of the Supreme Court of Virginia entered on November 26, 1973.

This appeal is taken pursuant to 28 U.S.C. §1257(2).

Date:

December 17, 1973

/s/ F. Guthrie Gordon, III

John C. Lowe
1111 West Main Street
Charlottesville, Virginia 22903
Attorneys for Appellant